IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.4987 of 2006
Date of decision : 21.9.2006.

Smt. Mohinder Kaur & Ors.

.....Petitioners.

Versus

Municipal Corporation, Jalandhar.

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.R.S.Bajaj, Advocate
for the petitioner.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the orders dated 17.11.2003 and 22.8.2006 passed by the learned Courts below declining the application moved by the petitioner under Order 39 Rules 1 & 2 C.P.C.

The learned Courts below on appreciation of the pleadings and documents placed on record have come to the conclusion that the Civil Court has no jurisdiction in the matter as admittedly remedy to challenge the claim of house tax is provided in the statute itself.

The learned counsel for the petitioners placed reliance on the judgment of this Court in **Municipal Corporation, Ludhiana Vs. M/s Ram Parshad Kidar Nath** 1988(1) Recent Revenue Reports 534 to contend that in this case there has been violation of principles of natural justice as no notice was served upon the petitioners before passing order

under Section 130 of the Punjab Municipal Corporation Act (for short 'the Act'). The learned counsel for the petitioner further contends that the procedural formalities were not complied with and order has been made without following the procedure laid down under the Act. The learned counsel for the petitioners further contends that the notice is alleged to have been undated and, therefore, cannot be said to be a notice in the eyes of law. The retrospective claim has been made qua the house tax which is stated to have been paid . On these pleas the learned counsel for the petitioners contends that Civil Court has no jurisdiction.

I have considered the contention of the learned counsel for the petitioners. Reading of Section 138 of the Act shows that issuance of notice once ordered, legality and authenticity of the same cannot be the subject matter of civil Court when the remedy of appeal is provided and jurisdiction of Civil Court is barred.

Dismissed.

September 21,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**